REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed March 8, 2007. Reconsideration and allowance of the application and pending claims are respectfully requested.

I. Claim Rejections - 35 U.S.C. § 101

Claims 1-8, 10, 12-16, 18, 20-24, 26-29, 31-33, 35, and 36 have been rejected under 35 U.S.C. § 101 as being drawn to non-statutory subject matter. In particular, the Office Action states that Applicant's claims are merely directed to an "abstract idea" and are not directed to a "useful, concrete and tangible result." Applicant respectfully traverses the rejections.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility," which were published in an Official Gazette notice ("the OG Notice") on November 2005, provides instruction to examiners as to how to determine whether patentable subject matter is claimed as per 35 U.S.C. § 101. The OG Notice first provides assistance to examiners in understanding recent court decisions that interpret the requirements of 35 U.S.C. § 101. In particular, the OG Notice explicitly acknowledges the breadth of what may qualify as a "patentable invention":

> As the Supreme Court held, Congress chose the expansive language of 35 U.S.C. Sec. 101 so as to include "anything under the sun that is made by man." Diamond v. Chakrabarty, 447 U.S. 303, 308-09, 206 USPQ 193, 197 (1980). . . .

> The plain and unambiguous meaning of section 101 is that any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may be patented if it meets the requirements for patentability set forth in Title 35, such as those found in sections 102, 103, and 112. The use of the expansive term "any" in section 101 represents Congress's intent not to place any restrictions on the subject matter for which a patent may be obtained beyond those specifically recited in section 101 and the other parts of Title 35 . . . Thus, it is improper to read into section 101 limitations as to the subject matter that may be patented where the legislative history does not indicate that Congress clearly intended such limitations.

Official Gazette Notice of November 22, 2005, Section IV.A.

Despite such inclusive language, the OG Notice indicates that there are limitations to what can be patented:

> Federal courts have held that 35 U.S.C. Sec. 101 does have certain limits. First, the phrase "anything under the sun that is made by man" is limited by the text of 35 U.S.C. Sec. 101, meaning that one may only patent something that is a machine, manufacture, composition of matter or a process. . . .
>
> The subject matter courts have found to be outside of, or exceptions to, the four statutory categories of invention is limited to abstract ideas, laws of nature and natural phenomena.

Official Gazette Notice of November 22, 2005, Section IV.A. Therefore, an invention is patentable under 35 U.S.C. § 101 as long as it falls within one of the explicit statutory categories identified in 35 U.S.C. § 101 and does not comprise one of an abstract idea, a law of nature, or a natural phenomenon (i.e., the three "judicial exceptions").

The OG Notice next provides explicit instructions to examiners as to how to determine whether a claim falls within a statutory category of 35 U.S.C. § 101:

> To properly determine whether a claimed invention complies with the statutory invention requirements of 35 U.S.C. 101, USPTO personnel must first identify whether the claim falls within at least one of the four enumerated categories of patentable subject matter recited in section 101 (process, machine, manufacture or composition of matter).

Official Gazette Notice of November 22, 2005, Section IV.B. Later, the OG Notice provides explicit instructions to examiners as to how to determine whether a claim falls within one of the judicial exceptions:

> Determining whether the claim falls within one of the four enumerated categories of patentable subject matter recited in 35 U.S.C. Sec. 101 (process, machine, manufacture or composition of matter) does not end the analysis because claims directed to nothing more than abstract ideas (such as mathematical algorithms), natural phenomena, and laws of nature are not eligible and therefore are excluded from patent protection. . .
>
> . . . In evaluating whether a claim meets the requirements of section 101, the claim must be considered as a whole to determine whether it is for a particular application of an abstract idea, natural phenomenon, or law of nature, rather than for the abstract idea, natural phenomenon, or law of nature itself.

Official Gazette Notice of November 22, 2005, Section IV.C.

The OG Notice further states that a claim that relates to an abstract idea, natural phenomenon, or law of nature may still be patentable:

> While abstract ideas, natural phenomena, and laws of nature are not eligible for patenting, methods and products employing abstract ideas, natural phenomena, and laws of nature to perform a real-world function may well be.

Official Gazette Notice of November 22, 2005, Section IV.C. On that issue, the OG Notice expresses that "practical applications" of the judicial exceptions can be patentable and provides specific guidelines to aid examiners in determining whether a practical application of one of the judicial exceptions is claimed:

> To satisfy section 101 requirements, the claim must be for a practical application of the Sec. 101 judicial exception, which can be identified in various ways:
>
> - The claimed invention "transforms" an article or physical object to a different state or thing.
>
> - The claimed invention otherwise produces a useful, concrete and tangible result, based on the factors discussed below.

Official Gazette Notice of November 22, 2005, Section IV.C.2. Therefore, *if* a claim is related to one of the judicial exceptions there must be an appropriate "transformation" or otherwise must be a "useful, concrete, and tangible result."

From the foregoing, it is apparent that the issue of whether a "useful, concrete, and tangible result" is claimed is *only* to be considered if: the claimed invention concerns one of the judicial exceptions (i.e., abstract ideas, natural phenomena, and laws of nature).

In the present case, each of Applicant's remaining claims is explicitly directed to a category of invention identified in 35 U.S.C. § 101. Specifically, claims 1-6, 8, 9, and 11 are directed to a "method" which comprises a process, claims 13-17, and 19 are directed to a system which comprises one or both of a machine and a manufacture, claims 21-25, 28, and 32, as amended, are directed to a "physical computer-readable medium" which comprises one or both of a machine and a manufacture, and claim 36, as amended is directed to a web server which comprises one or both of a machine and a manufacture.

Furthermore, none of Applicant's claims comprise "an abstract idea, nature phenomenon, or law of nature". Regarding claims 13-16, 18, 20-24, 26-29, 31-33, 35, and 36, there is no way the claims can reasonably be considered to be mere "abstract ideas" because the claims are directed to actual physical things (i.e., systems and computer-readable media). Clearly, a physical thing cannot comprise an "abstract idea". Regarding method claims 1-8, 10, and 12, Applicant is not claiming a mere "abstract idea." Instead, a particular, real-world application is described. Specifically, described is a process by which session information contained in messages sent to network services is identified and propagated in association with a given message session so as to enable tracking of the session. Clearly, such an application cannot be reasonably considered to be a mere "abstract idea." For example, Applicant's claimed method cannot be practiced in one's mind given that the process includes actions such as intercepting and instrumenting. Applicant believes that the Examiner's opinion that the claimed method does not rise to the level of a "practical application" until session information is stored is arbitrary and unwarranted. Applicant should be entitled to claim its novel and unobvious inventions in the manner in which it chooses and should not be

forced to satisfy the Examiner's subjective views of what is or is not "practical" enough to merit patent protection.

In view of the above, Applicant respectfully submits that each of Applicant's remaining claims is directed to statutory subject matter as defined by 35 U.S.C. § 101 and therefore respectfully requests that the rejections be withdrawn.

II. Claim Rejections - 35 U.S.C. § 102(e)

Claims 1-36 have been rejected under 35 U.S.C. § 102(e) as being anticipated by *Kaler, et al.* ("Kaler," U.S. Pub. No. 2004/1099586). Applicant respectfully traverses.

As indicated above, each independent claims has been amended through this Response. In view of those amendments, Applicant respectfully submits that the rejections are moot as having been directed at Applicant's claims in a previous form. Applicant therefore respectfully requests that the rejections be withdrawn.

Regarding the merits of the Kaler reference as they pertain to Applicant's claims, Applicant notes that Kaler at least does not teach intercepting an incoming message sent to a "network service", writing session information relevant to the incoming message to a "thread-local variable", intercepting an outgoing message sent by the "network service", performing a "thread-local variable lookup so as to retrieve the session information written to the thread-local variable", or "instrumenting the outgoing message with the session information".

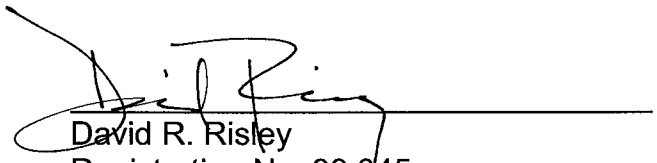
III. Canceled Claims

Claims 7, 10, 12, 18, 20, 26, 27, 29-31, and 33-35 have been canceled from the application without prejudice, waiver, or disclaimer. Applicant reserves the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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